



# United States Department of the Interior

## OFFICE OF INSPECTOR GENERAL

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JAN 23 1995

## MEMORANDUM AUDIT REPORT

**To:** Assistant Secretary - Land and Minerals Management

**From:** Acting Assistant Inspector General for Audits

**Subject:** Final Audit Report on Followup of Recommendations Relating to Bureau of Land Management User Charges for Mineral-Related Document Processing (No. 95-I-379)

## INTRODUCTION

The Office of Inspector General has completed a followup review of recommendations presented in the November 1988 report titled "User Charges for Mineral-Related Document Processing" (No. 89-25). The objective of the followup audit was to determine whether the Bureau of Land Management had satisfactorily implemented the corrective actions recommended in the report.

## BACKGROUND

The Bureau of Land Management is responsible for managing the public lands and their resources under the concept of multiple use of land areas to provide maximum public benefit. Mineral resources are managed to provide a domestic source of energy and important nonenergy minerals, to ensure orderly and timely development of minerals on Government lands, and to obtain fair market value return to the Federal Government.

The Bureau is responsible for approximately 270 million acres of public land in 28 states. In addition, the Bureau administers minerals leasing and supervises minerals operations on Indian lands and on 300 million acres of mineral estate underlying Federally administered state or private ownerships throughout the United States. The Bureau's annual cost to manage lands and resources is about \$540 million, which provides for about 7,900 employees.

Title V of the Independent Offices Appropriations Act of 1952 (the User Charge Statute) authorizes Federal agencies to charge for services or benefits provided to

specific beneficiaries. Office of Management and Budget Circular A-25, "User Charges," dated September 23, 1959, as amended, provides guidance to Federal agencies on implementing the Act. The Departmental Manual, Part 346, "Cost Recovery," states that unless directed otherwise by statute or other authority, a charge that recovers bureau or office costs is required to be imposed for services that provide special benefits or privileges to non-Federal recipients above and beyond those that accrue to the general public. Part 346 also provides guidance for exemption, prescribes a methodology for determining costs of services, and requires annual reviews of cost-recovery activities. Each bureau is directed to establish its own cost-recovery procedures consistent with Departmental policy.

The only user fee required by the Mining Law Act of 1872 for unpatented mining claim holders was a \$25 application fee. The Mining Law Act also required claimants to perform a minimum of \$100 worth of assessment work every year for each claim. However, the Interior Department and Related Agencies Appropriations Act of 1993 made changes in mining user fees. For example, the Appropriations Act requires mining claimants, except for qualified small miners, to pay a \$100 rental fee for each claim for fiscal years 1993 and 1994. As a result of implementation of the Act, the Bureau collected \$53 million in fees from October 1992 through October 1993. In August 1993, the Congress passed the Omnibus Budget, which extended the \$100 annual fee through 1999 and added a \$25 location fee.

Our November 1988 report disclosed that the Bureau had generally implemented the policies and procedures prescribed in the Independent Offices Appropriation Act of 1952, Office of Management and Budget Circular A-25, and the Departmental Manual. However, the prior report disclosed that the Bureau had not established fees for processing 22 different types of documents for mineral exploration and development and that the fees for another 21 different types of documents recovered less than the cost of processing these documents. As a result, opportunities to collect an additional \$2.2 million annually by establishing document processing fees to recover full costs were not realized. The report made five recommendations, which the Bureau agreed to implement by the end of fiscal year 1989. The Bureau reported to the Department that four of the five recommendations had been implemented as of September 30, 1993. The recommendation to establish and collect fees had not been implemented.

## **SCOPE OF AUDIT**

This followup review was conducted in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. Our scope was limited to reviewing the five recommendations made in the prior report. Because of the limited scope of this audit, the Bureau's internal control system for fee collection procedures was not

reviewed. The review was performed at the Bureau's headquarters in Washington, D.C.; the Wyoming State Office in Cheyenne, Wyoming; the Eastern States Office in Springfield, Virginia; and the Nevada State Office in Reno, Nevada.

## **RESULTS OF AUDIT**

We found that three of the five recommendations in the November 1988 report were implemented, one was not implemented, and one was partially implemented (the status of the recommendations is in Appendix 2). The partially implemented recommendation related to determining or estimating the number of documents processed and their processing costs. The unimplemented recommendation related to establishing and collecting fees to recover processing costs.

Although the Bureau had compiled data on the costs of processing all mineral-related documents subject to cost recovery, it did not verify that the costs by the state offices were consistent and reasonable. In addition, the Bureau had delayed taking final action to establish and collect fees needed to recover the costs to process mineral-related documents. As a result, the Bureau has not recovered costs estimated at \$47.6 million from 1989 to 1994 and may not recover \$7.6 million annually in subsequent years if final action is not taken.

### **Estimating Document Processing Costs**

In our prior report, we recommended that the Bureau determine or estimate the number of documents processed and their processing costs (Recommendation 2). To implement the recommendation, the Bureau compiled data on the estimated processing costs for 125 types of mineral-related documents from all the state offices. The Bureau, in consultation with the Office of Financial Management, determined that 59 of the 125 documents were subject to cost recovery. The Bureau applied a weighted average to all the information received and computed an average processing cost for each of the 59 documents. The Bureauwide average cost was then used as a basis for the proposed user fees to be charged uniformly by all state offices. However, because the Bureau did not have formal standards for processing individual documents, the state office estimates of the time and cost to process mineral-related documents varied significantly from state office to state office. For example, for two state offices that had processed a similar number of noncompetitive applications for mineral materials during a 2-year period, the reported processing costs for each application were \$81.64 in one office and \$4,773.26 in the other office. Other examples of major cost variances as reported by the state offices are presented as follows:

<u>Description</u>	<u>Low</u>	<u>High</u>	<u>Percent of Variance</u>
Noncompetitive Lease Application - Oil & Gas	\$87.06	\$774.01	789
Notice of Location - Mining Claim	\$3.29	\$36.89	1,021
Mineral Materials - Permits/ Contracts for Pits	\$21.20	\$2,839.24	13,293
Assignments and Transfers -			
Coal	\$106.67	\$1,765.78	1,555
Mining Claims	\$1.81	\$30.30	1,574
Name Change	\$23.25	\$419.12	1,703
Lease Reinstatement - Oil & Gas, Class II and III	\$15.52	\$430.78	2,676

From our review of data submitted by three state offices (the Eastern States Office, the Nevada State Office, and the Wyoming State Office), we determined that some of the differences in reported costs could be explained by the individual state office's operations, such as different employee grade structures, requirements for providing environmental reviews, and requirements for travel and travel-related expenses. However, most of the differences in reported costs were attributable to inconsistencies in the manner in which the state offices compiled and reported processing costs. Specifically, each state office estimated different amounts of time to process the same document, used different methodologies to estimate costs, and applied inconsistent indirect cost rates.

We believe that the inconsistencies in time and costs as reported by the three state offices visited resulted from a lack of Bureauwide standards for processing documents and from inadequate and unclear instructions provided to the state offices. In that regard, the Bureau did not provide adequate coordination and oversight to ensure the reliability of the data submitted.

We recognize the efforts the Bureau has made in obtaining and summarizing data on the costs of processing mineral-related documents. The Bureau assembled a team of experts whose mission was to evaluate the cost data submitted by the individual state offices and to develop proposed Bureauwide fees for processing each document. However, it appears that the team accepted much of the data submitted by the state offices without sufficiently evaluating the data for consistency and reasonableness.

Bureau officials told us that their primary concern in performing this analysis was to obtain estimates of actual costs incurred in processing documents for use in establishing the user fees and that consistency among the various state offices and efficiency of operations were not among the factors that they considered. They

further stated that because of budget constraints and the Bureau's realignment and reorganization, they did not have the resources necessary to visit each state office and instead relied on the state offices for the accuracy of data that were being submitted. The officials also said that because they used the weighted average method in developing the proposed user fees, the resultant fees for Bureauwide application would be appropriate and justifiable.

Because of the significant variances in the state offices' processing costs and other inconsistencies, we concluded that the proposed fees are not adequately supported. In our opinion, the Bureau should have reviewed the cost estimates provided by individual state offices and reexamined the submissions for items where major variances among the state offices were reported, particularly for those items having a major monetary impact on cost recovery. We also believe that because the cost information was collected in 1989, the data are obsolete and need to be updated.

In order to establish user fees for Bureauwide application, we believe that the Bureau needs to develop standards for processing all documents subject to cost recovery. The Bureau should request the state offices to submit more current cost data based on the new standards, which could then be used to develop the appropriate cost-recovery rates. We believe that this additional work is needed to ensure the validity of the data. Without such assurance, the Bureau would have difficulty in defending the user fees proposed for Bureauwide application. In addition to having reliable and defensible data for establishing user fees, the Bureau would have an opportunity to review the efficiency of some of the functions performed by individual field offices and could adopt the most efficient methods of performing its mission.

### **Delays in Implementing Revised User Fees**

In our prior report, we recommended that the Bureau establish and collect fees to recover costs for processing documents that are not exempted from cost recovery (Recommendation 5). We found that the Bureau has delayed for over 4 years implementation of the revised user fees schedule intended to recover the full cost of processing mineral-related documents. As a result, the Bureau lost the opportunity to recover an estimated \$40 million from September 1989 (the date initially scheduled for implementation of the revised user fees) to August 1993. Continued delays in implementing revised user fees will result in an annual loss of an estimated \$7.6 million from fiscal year 1994 through future years.

The January 1989 response to our prior audit report from the Director, Bureau of Land Management, stated that the Bureau would initiate and complete actions to implement the recommendation to establish and collect fees in fiscal year 1989. The Bureau spent 7 months in identifying the approach to be taken to establish and collect fees and an additional 18 to 20 months in obtaining and analyzing the document processing cost data. In July 1991, the Bureau transmitted to the Assistant



Secretary - Land and Minerals Management its overall recommendation for cost recovery. In 1992, the Bureau discussed user fees with various offices within the Department of the Interior (such as the Assistant Secretary for Policy, Management and Budget; the Solicitor; and the Assistant Secretary for Land and Minerals Management). On October 2, 1992, the Bureau published its intent to propose a rule change in the "Federal Register." A Bureau official said that the actions remaining to be taken included obtaining approval from the Office of Management and Budget, publishing a public notice, responding to public comments, and making final revisions to and approving a new fee schedule.

Because of the varying number of documents processed each year and the delay in the development of the user fee schedule, we cannot determine the exact amount of additional fees that could have been recovered since our prior report was issued. However, using the proposed fees established by the Bureau of the number of documents processed and the Bureau's proposed user fees, we determined that for a 4-year period, the Bureau could have increased its cost recovery by more than \$10 million annually for the 59 documents subject to fee collection. Thus from September 1989, the date initially scheduled for implementation of new user fees, to September 1993, the delay in implementing the new fees has resulted in a loss of potential additional cost recovery of over \$40 million. However, elimination of the applicable user fees for mining claims reduced the cost-recovery potential from \$10 million to \$7.6 million annually beginning in fiscal year 1994.

Our review disclosed that of the \$10 million of additional costs that could be recovered in processing the 59 mineral-related documents, about \$8 million involved only five of these documents. Subsequent legislative appropriation changes relating to mining claims have reduced the overall increase for the 59 documents to \$7.6 million, of which approximately \$5 million involves only four documents. For example, a proposed increase for processing competitive and noncompetitive oil and gas lease applications would result in an annual increase in cost recovery of \$3.7 million. Similarly, oil and gas assignments and transfers in the proposed fee schedule would increase the cost recovery by an additional \$1 million. Because much of the delay in recovering costs occurred while the Bureau collected data on all 125 documents processed and obtained appropriate approvals for exemptions, we believe that other options are available that would expedite implementation of cost recoveries. For example, the Bureau could identify mineral-related documents that have significant monetary impacts on cost recovery, such as the oil and gas lease application and the oil and gas assignment and transfers, and move expeditiously to revise the fees on these documents. A major portion of the proposed increase in cost recovery would be realized, and the Bureau could then follow through systematically and complete the process of revising fees for the remaining documents.

Bureau officials stated that any increase in fees would not readily be accepted by the users. However, we believe that taking initial efforts to implement the fees would ensure that Federal expenditures are recovered at the earliest date.

## **Recommendations**

We recommend that the Director, Bureau of Land Management:

1. Develop standards and other criteria for processing the 59 mineral-related documents subject to cost recovery. The state offices should be requested to provide current information on the costs of processing the various mineral-related documents based on the new standards. The Bureau should then analyze the estimated processing costs of documents whose processing procedures indicate disproportionate differences among the state offices; determine the causes for these differences; and resolve the differences, particularly for the documents that will have major impacts on cost recovery.

2. Take action to expedite the establishment and the collection of user fees for processing documents that have a significant impact on the amount of cost recovery and continue efforts to establish and collect user fees on those documents that have less financial significance.

## **Bureau of Land Management Response**

The Bureau of Land Management, through its Deputy Director, initially responded to our draft report on August 15, 1994. To obtain clarification regarding the response, we met with Bureau officials on November 14, 1994, and requested additional information on actions taken or planned to implement our recommendations. In the supplemental information provided on December 1, 1994, the Bureau agreed that consistency in computing costs was important and reported that it had developed guidance/standards which were used by all state offices to achieve uniformity in data gathering and reporting. The Bureau further stated that through the establishment of a multiprogram team, it would continue to examine fees to achieve a cost-recovery program which is consistent across traditional programmatic lines. The Bureau also stated that it would coordinate implementation of mineral fees, which would include mining law fees, with its current efforts to review cost recovery related to the right-of-way program. The Bureau indicated that its goal in combining these efforts is to ensure that fee collections for minerals, as well as other Bureau activities, are administered as efficiently and consistently as possible.

## **Office of Inspector General Comments**

Based on the Bureau's response and supplemental information, we consider both recommendations resolved but not implemented. Accordingly, the recommendations will be referred to the Assistant Secretary - Policy, Management and Budget for tracking of implementation.

Since the report's recommendations are considered resolved, no further response to this office is required (see Appendix 3).

The legislation, as amended creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.



Marvin Pierce

cc: Director, Bureau Land Management



APPENDIX 1

CLASSIFICATION OF MONETARY AMOUNTS

<u>Finding Area</u>	<u>Lost Revenues</u>
Lost User Charge Revenues From October 1989 Through September 1994	\$47.6 million

**SUMMARY OF RECOMMENDATIONS AND CORRECTIVE  
ACTIONS FOR AUDIT REPORT "USER CHARGES FOR  
MINERAL-RELATED DOCUMENT PROCESSING"**

<u>Recommendations</u>	<u>Corrective Actions</u>
1. List all mineral-related documents that the Bureau processes which provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those that accrue to the public at large.	Implemented. The Bureau identified approximately 59 documents subject to cost recovery.
2. Determine or estimate the cost and number of each document processed.	Partially implemented. The Bureau has compiled data on the estimated processing costs for about 125 mineral-related documents. However, the data collected varied significantly from office to office, which makes the reasonableness of the proposed rates questionable for Bureauwide application.
3. Establish cost recovery exemption standards and apply the standards to each document on the list.	Implemented. The Bureau has established exemption standards, which have been approved by the Solicitor and the Department's Office of Financial Management.
4. For those documents to be exempted from cost recovery, prepare and maintain documentation that will leave no doubt as to the considerations which led to the exemptions.	Implemented. The Bureau has prepared documentation indicating the rationale and other considerations that led to requests for exemptions that have been approved by the Department.

Recommendations

5. For the other documents, establish and collect fees to recover processing costs.

Corrective Actions

Not implemented. The Bureau has not finalized the actions needed to begin the collection of proposed fees.

**STATUS OF AUDIT REPORT RECOMMENDATIONS**

<b>Finding/Recommendation Reference</b>	<b>Status</b>	<b>Action Required</b>
<b>1 and 2</b>	<b>Resolved; not implemented</b>	<b>No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.</b>